



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1868

MAY -7 2014

Timothy Birdsall
2666 Grace Ave.
Newfane, NY 14108-1106

Re: Access to the former Flintkote Property Parcel located at 198 Mill Street

Dear Mr. Birdsall:

The U.S. Environmental Protection Agency (EPA) requires access to your property at 198 Mill Street that, as you know, was formerly owned by the Flintkote Company. EPA is also seeking access to 300 Mill Street which was also owned by Flintkote but is now owned by Niagara County. Access to both properties is required to conduct sampling of the properties, to demolish the dilapidated building at 300 Mill Street, and to conduct other response activities as detailed in the Record of Decision ("ROD"), issued on September 30, 2013, in which EPA selected a remedy for Operable Unit 1 ("OU1") of the Eighteen Mile Creek Superfund Site. Access is also required to perform a Remedial Investigation (RI) of certain properties, including yours and 300 Mill Street, which are located along the Eighteen Mile Creek in Lockport, New York. These activities are being conducted pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675.

The remedy selected in the September 2013 ROD included demolition of the Flintkote building, based in part on an analysis of building material which was found to contain high levels of polyaromatic hydrocarbons (potentially harmful chemicals materials found in petroleum products and produced during incomplete combustion of materials) as well as asbestos-containing material. The deteriorated condition of the building itself is also preventing EPA from being able to enter and obtain samples of the soil beneath the building.

The soil at your property and at 300 Mill Street are suspected sources of polychlorinated biphenyl (PCB) and metal contamination to the Eighteen Mile Creek. This is based on samples which were collected by the New York State Department of Environmental Conservation (NYSDEC) in 1996 and 1999. EPA may collect additional samples at your property to confirm and further define the extent of contamination as part of the RI. EPA plans to use this data, along with the data collected by the NYSDEC, to evaluate and select a method to address the contamination.

We are requesting that you provide EPA and its designated representatives, such as the NYSDEC, regular access to your property located at 198 Mill Street to conduct these activities. As such, I am requesting that you sign the attached form acknowledging your consent for providing access to your property and mail the form to me by May 21, 2014. I expect that access will be required for the next several years.

Should you have any questions on this request, please do not hesitate to call either me at 212 637-4281 or email at tacccone.tom@epa.gov, or if you have legal questions, you may contact James Doyle, of EPA's Regional Counsel Office at 212-637-3165 or email at doyle.james@epa.gov.

Sincerely yours,



Thomas Taccone
Remedial Project Manager
Eighteen Mile Creek Superfund Site

Attachment

cc: J. Foltz, Niagara County
cc: T.Kish, ERRD-NYRB

CONSENT FOR ACCESS TO PROPERTY

Address of Property: 198 Mill Street, City of Lockport, New York

The purpose of this Consent for Access is to enable the U.S. Environmental Protection Agency ("EPA") to secure access to property located at 198 Mill Street in Lockport, New York (the "Property") in order to conduct response activities pursuant to EPA's response authorities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9601-9675.

By executing this Consent for Access, I hereby consent to and authorize employees, authorized agents, contractors, and subcontractors of EPA and New York State to enter and to have continued access to move about the Property for the purpose of performing environmental response activities. EPA environmental response actions may include:

- Removal of trees and vegetation;
- Performance of additional environmental investigations; and
- Additional response activities based on the findings of additional investigations.

I understand and agree that the above-mentioned representatives will be free to enter upon my property at all reasonable times.

I understand that EPA requires its contractors to maintain comprehensive vehicle liability insurance and comprehensive general liability insurance for bodily injury, death, and loss or damage to property or third persons arising from the activities of its contractors. I further understand that insurance should be maintained during all times that EPA's agents or contractors are conducting activities on my Property.

The granting of this permission by me, as the Property owner, is not intended, nor should it be construed, as an admission of any liability on my part or my successors and assigns for any contamination discovered on the Site.

This written permission is given by me voluntarily with knowledge of my right to refuse and without threats or promises of any kind.

Signature: _____ **Date:** _____

Print name: _____ **Title:** _____